

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 UNITED STATES OF AMERICA,

Case No. 2:15-cr-00125-APG-GWF

8 Plaintiff,

9 v.

ORDER

10 RICHARD LEE SATERSTAD,

11 Defendant.
12

13 This matter is before the Court on the Defendant's Motion to Order Regarding Legal
14 Resources (ECF No. 177), filed November 28, 2018. On December 14, 2018, the Court entered a
15 Minute Entry Oder instructing the Nevada Southern Detention Center ("NSDC") to file a response.
16 ECF No. 178. On January 15, 2019, CoreCivic, an entity which owns and operates NSDC, filed
17 a Motion to Extend Time to file its response. ECF No. 185. The Court granted CoreCivic's
18 request. *See Order*, (ECF No. 186). On January 30, 2018, CoreCivic filed its Response to
19 Defendant's Motion Regarding Legal Resources. ECF No. 191.

20 **BACKGROUND**

21 Defendant is charged with receipt or distribution of child pornography in violation of 18
22 U.S.C. § 2252(a)(2). Defendant is detained at NSDC pursuant to a detention order filed May 5,
23 2015. *See Order*, (ECF No. 8). Defendant voluntarily and knowingly elected to proceed in this
24 matter *pro se*. ECF No. 18. Trial is currently set for February 25, 2019. ECF No. 190.

25 Defendant requests several policies be implemented or amended at NSDC, including: (1)
26 that he be permitted to retain more than five books at a time; (2) a policy permitting detainees to
27 possess personal calendars; (3) the implementation of a policy prohibiting the erasure of legal files
28 on the facility computers; (4) proof that his personal belongings were released to his former

1 attorney. ECF No. 177. CoreCivic objects to these requests and asserts that not only are
2 Defendant's demands without merit but his Motion is improperly before this Court and should be
3 brought via a civil rights complaint. ECF No. 191.

4 DISCUSSION

5 Claims exclusively related to conditions of confinement cannot be brought in a federal
6 criminal case and are outside the jurisdiction of the Court. *United States v. Wade*, No. 307-CR-
7 00111-RRB-JDR, 2009 WL 3837151, at *1 (D. Alaska Nov. 13, 2009). In addition, Prison
8 Litigation Reform Act ("PLRA") mandates that inmates exhaust their administrative remedies
9 before bringing a civil action challenging prison conditions. *Booth v. Churner*, 532 U.S. 731, 741,
10 121 S.Ct. 1819, 149 L.Ed. 2d 958 (2001); *Ngo v. Woodford*, 548 U.S. 81, 126 S. Ct. 2378, 165
11 L.Ed. 2d 368 (2006); *McKinney v. Carey*, 311 F.3d 1198, 1199-1201 (9th Cir. 2002). The primary
12 exception to this rule applies when conditions of confinement interferes with a pretrial detainee's
13 access to counsel in a criminal case. *Wade* at *1.

14 On June 24, 2016, Defendant was advised that challenges relating to conditions of
15 confinement should be brought in a civil rights complaint under 42 U.S.C. § 1983. *See Order*,
16 (ECF No. 94). Defendant's requests for additional books, a personal calendar, that he be provided
17 notice of erasure policies and proof that his clothing was retrieved by former counsel all relate to
18 conditions of confinement. Moreover, Defendant's motion does not allege interference or inability
19 to access resources in order to properly prepare for his defense nor does he allege that he has
20 exhausted all administrative remedies. Instead Defendant argues that he should be allowed his
21 requests as a matter of convenience. Thus, Defendant cannot seek civil relief in his criminal
22 proceeding. Defendant is further advised that he cannot bring a civil rights action on the conditions
23 of his present confinement in NSDC unless or until he has completed administrative remedies
24 provided by the NSDC for the processing of grievances prior to filing suit. Accordingly,

25 ...

26 ...

27 ...

28 ...

IT IS HEREBY ORDERED that Defendant's Motion to Order Regarding Legal Resources (ECF No. 177) is **denied**.

Dated this 6th day of February, 2019.

GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE